

### Remarks

The Applicants have amended Claims 20 and 37 to clarify the subject matter therein. Some portions of the claims have been rearranged to obtain such clarity. The other portions describe the subject matter as shown in, for example, Fig. 1. Entry of the amendments into the official file is respectfully requested.

The Applicants note with appreciation the withdrawal of the objection and previous rejections under §112.

Claims 20, 22, 23, 25-29, 31-34 and 38 stand rejected under 35 USC §103 over Baumgartner and Songer with Jahng. The Applicants note with appreciation the Examiner's detailed comments applying the combination against those claims. The Applicants nonetheless respectfully submit that the combination fails to result in a structure as recited in independent Claims 20 and 37.

Songer discloses a cable anchoring apparatus used to secure a bone portion. The Songer apparatus includes a screw anchor 26 to be inserted into a bone portion, the screw anchor 26 comprising an elongate shank 28 having a through bore 46 that extends through the screw shank 28, and a flexible cable 22 attached to the screw shank 28 to extend outwardly from the proximate end 32 of the screw shank 28.

The through bore 46 has a tapered portion 26 which tapers outwardly toward the proximate end 32 of the screw shank 28 (as described in Fig. 10 and paragraph [0027]). Also, as indicated in paragraph [0027] at lines 1-3, this configuration minimizes discrete stress points on the cable 22.

However, even if one skilled in the art were to combine Jahng, Baumgartner and Songer, the structure resulting from that combination would be different from Claims 20 and 37. In that

regard, Songer discloses a tapered cavity crossed only by the cable 22. Hence, the “tapered” configuration allows the cable 22 to begin to flex in the direction it is to undertake when exiting from the through bore 46 at the proximate end 32 of the shank 28.

In modifying the cavity of the rigid part of Jahng, one skilled in the art would also need to modify the cable and polymer envelope surrounding the cable. However, if one skilled in the art is armed with the teachings of Songer, that person would strip a part of the cable of Jahng (i.e., remove a part of the envelope 5) to allow the cable to flex in the tapered portion of the cavity.

In sharp contrast and as illustrated in the Applicants’ Fig. 5, the cavity of the rigid part is “filled with” a part of the flexible polymer envelope. Hence, the combination of Jahng, Baumgartner and Songer would still fail to disclose, teach or suggest that the cavity is filled with a part of flexible polymer envelope. The Applicants’ discovered that an advantage of the claimed structure is the presence of a flexible polymer part of the envelope to reduce stresses between the rigid part and the flexible part and the risk of shearing the cable.

Given that the combination of Baumgartner and Songer with Jahng would result in a completely different structure, the Applicants respectfully submit that the combination is inapplicable to Claims 20, 22, 23, 25-29, 31-34 and 38. Withdrawal of the rejection is accordingly respectfully requested.

Claim 30 stands rejected under 35 USC §103 over the further combination of Mazel with Songer, Baumgartner and Jahng. The Applicants respectfully submit, however, that Mazel fails to cure the deficiencies set forth above with respect to the primary and secondary references. Withdrawal of the rejection is respectfully requested.

Claim 35 stands rejected under 35 USC §103 over the further combination of Freudiger with Songer, Baumgartner and Jahng. The Applicants respectfully submit, however, that Freudiger fails to cure the deficiencies set forth above with respect to the primary and secondary references. Withdrawal of the rejection is respectfully requested.

Claim 36 stands rejected under 35 USC §103 over the further combination of Sherman with Songer, Baumgartner and Jahng. The Applicants respectfully submit, however, that Sherman fails to cure the deficiencies set forth above with respect to the primary and secondary references. Withdrawal of the rejection is respectfully requested.

Claim 37 stands rejected under 35 USC §103 over the combination of Songer and Trieu with Jahng. The Applicants respectfully submit that the combination of Songer with Jahng fails to result in the subject matter of Claim 37 for the reasons set forth above with respect to Claim 20. The Applicants also respectfully submit that Trieu fails to cure the deficiencies set forth above with respect to Songer and Jahng (as well as Baumgartner). Withdrawal of the rejection is respectfully requested.

In light of the foregoing, the Applicants respectfully submit that the entire Application is now in condition for allowance, which is respectfully requested.

Respectfully submitted,



T. Daniel Christenbury  
Reg. No. 31,750  
Attorney for Applicants

TDC/vp  
(215) 656-3381